IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Bail Appl..No. 3222 of 2007()

CRIME NO.87/07 OF MANGALORE EAST POLICE STATION

PETITIONER/ACCUSED

K.NAZEER KHAN, AGED 39,
S/O.KABEER, MUTHUVILLA HOUSE, POOTHERIVALAPPU,
MUNNIYOOR VILLAGE, THIRURANGADI TALUK,
MALAPPURAM (DT).

BY ADV. SRI.P.SHAIJAN JOSEPH

RESPONDENTS: COMPLAINANT

CIRCLE INSPECTOR OF POLICE,
MANGALORE EAST POLICE STATION, KADRI HILLS,
MAGALORE, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3222 OF 2007

Dated this the 9th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner apprehends arrest as an accused in Crime No.87/07 of the Mangalore East Police Station registered under Sec.420 of the IPC. That crime has been registered on the basis of a complaint that some persons have been induced to part with money on the unintended promise of making Visas available for employment overseas. The crime has been registered. Investigation is in progress. The petitioner is not arrayed as an accused in the complaint. But later, the accused shown in the complaint was arrested. He has obtained anticipatory bail earlier. He was intercepted. After his interrogation, recoveries were effected. The petitioner has been arrayed as the 2nd accused on the basis of such subsequent interrogation

of the 1st accused. The petitioner apprehends that he may be arrested. It is prayed, in these circumstances, that directions under Sec.438 of the Cr.P.C. may be issued in his favour. Even the principal accused was granted anticipatory bail by the court concerned, it is submitted.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Appropriate directions may be issued under Sec.438 of the Cr.P.C. to save the petitioner from the undeserved trauma of arrest and detention in custody, he prays.

3. The learned Public Prosecutor opposes the application. The present Investigating Officer has come before this Court and has instructed the learned Public Prosecutor. This application is opposed. The petitioner has to be thoroughly interrogated; recoveries will have to be effected and, in these circumstances, no directions under Sec.438 of the Cr.P.C. can or need be issued, it is submitted.

4. I am satisfied, in the facts and circumstances of this case, that directions under Sec.438 of the Cr.P.C. can be issued in favour of the petitioner to enable him to approach the Courts at Mangalore to seek appropriate directions – for anticipatory bail or regular bail as the case may be. I am satisfied that directions limited in its period of operation can be issued to

enable the petitioner to proceed to Mangalore and seek appropriate orders from the courts there.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Chief Judicial Magistrate, Kozhikode, at 11 a.m. on 16/7/07. He shall be released on his executing a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate undertaking to surrender before the learned Magistrate having jurisdiction and seek appropriate orders regarding bail or to produce before such Magistrate appropriate directions from the Sessions Judge at Mangalore or the High Court of Karnataka under Sec.438 of the Cr.P.C.

(ii) The petitioner shall report compliance of the above directions to the learned Chief Judicial Magistrate, Kozhikode on 20/7/07. If the conditions are not complied with, the learned Chief Judicial Magistrate shall proceed against the petitioner and his sureties for breach of conditions of the bond.

(iii) If the petitioner does not appear before the learned Chief Judicial Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 16/7/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Chief Judicial Magistrate on 16/7/07.

6. Hand over copies of this order to both sides.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge